

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
-NORFOLK DIVISION-**

TIMOTHY B. BOSTIC, et al.

Plaintiffs,

v.

Case No.: 2:13cv395

JANET M. RAINEY, et al.

Defendants.

STATUS REPORT

NOW COMES Defendant George E. Schaefer, III, in his official capacity as Clerk of Court for Norfolk Circuit Court (“Clerk Schaefer”), by counsel, and files this Status Report requested by the Court (NEF Doc. 99), as follows:

1. Does oral argument on the issues remain warranted, or should the Court instead rule promptly on the briefs without a hearing?

This Court initially declared “[o]ral argument will be set by the Court if deemed necessary.” (NEF Doc. 17.) Subsequently, Plaintiffs requested oral argument on their motion for summary judgment or in the alternative their motion for a preliminary injunction. (NEF Doc. 30.) Clerk Schaefer has maintained the issues raised in the summary judgment motions may be decided as a matter of law by the Court, and the issues have been fully briefed by the parties. Clerk Schaefer neither joined in nor objected to Plaintiffs’ hearing request. On December 23, 2013, the Court issued notice of the hearing for January 30, 2014. The recent Notice from the Office of the Attorney General does not change Defendant Schaefer’s position. Clerk Schaefer neither requests nor objects to a hearing on the summary judgment motions. If the Court requests a hearing, counsel for Clerk Schaefer shall appear and argue the positions set forth in his

briefs. If the Court is prepared to issue a ruling on the briefs, Clerk Schaefer has no objection to a prompt decision.

2. If oral argument is desired by a party or Intervenor, what is the requested scope and duration of that party's argument (with the understanding that duplicative or cumulative arguments are strongly discouraged)?

If the Court deems a hearing necessary at the request of any party or intervenor, Clerk Schaefer requests the right to present oral argument on the issues raised in his briefs. Specifically, Clerk Schaefer requests the right to argue in favor the constitutionality of Virginia's definition of marriage which prevents his office from issuing marriage licenses to same sex couples and to argue the standing of the various Plaintiffs to this suit. It is believed 15-20 minutes for initial argument and 5-10 minutes for rebuttal would be sufficient duration. If another party is provided additional time, Clerk Schaefer requests his counsel be provided the same amount of time.

3. In light of the change of position by the Attorney General, do any parties or other entities have grounds to present argument that the laws denying the right to marry to same-sex couples should be construed as constitutional?

The Attorney General's change in position is not binding authority and does not alter Clerk Schaefer's defense of this lawsuit. The Virginia Constitution and statutes still prohibit the issuance of marriage licenses to same sex couples. Attorney General Herring's argument to this Court does not invalidate these laws. Just like Defendant Rainey, Clerk Schaefer "has no authority to invalidate or ignore Virginia's ban on same-sex marriage." (NEF Doc. 96-1 at 24.) These laws were duly enacted by the legislature, and in the case of the constitutional amendment approved by the citizens, and Clerk Schaefer intends to continue defending these laws in

accordance with the arguments presented in his briefs. The issues presented in the claims against Clerk Schaefer are of great importance to society, and should be adjudicated fairly and promptly. Clerk Schaefer opposes the intervention of any additional parties to present argument in this litigation to the extent it would cause delay in a decision on the merits.

Respectfully submitted this 24th day of January, 2014.

GEORGE E. SCHAEFER, III, in his official
capacity as Clerk of Court for Norfolk Circuit Court

By: _____/s/_____

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) to the following:

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And I hereby certify that I will mail the document by U.S. Mail to the following non-filing user at his last known address:

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